

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Numbering Resource Optimization)	CC Docket No. 99-200
)	
Petition of Nebraska Public Service)	
Commission for Additional Delegated)	
Authority to Implement Numbering Resource)	
Optimization Measures)	
)	

To: The Commission

COMMENTS OF CINGULAR WIRELESS LLC

Cingular Wireless LLC (“Cingular”) supports¹ the conservation of telephone numbers through thousands-block number pooling and has no objection to granting additional delegated authority to the Nebraska Public Service Commission (“PSC”) to require pooling participation by LNP-capable carriers throughout Nebraska – provided, however, that any such pooling is implemented in a manner consistent with the Commission’s rules and existing industry number pooling guidelines.

If the Commission grants additional authority to the Nebraska PSC to implement mandatory pooling outside the top 100 MSAs, the Commission must ensure that such authority does not include authority to require participation in pooling plans that are not included in existing Commission rules or industry guidelines, particularly plans that would inappropriately

¹ Cingular is submitting these Comments pursuant to the Public Notice released November 30, 2004. See *Wireline Competition Bureau Seeks Comment on Petitions of West Virginia Public Service Commission and Nebraska Public Service Commission for Additional Delegated Authority to Implement Numbering Resource Optimization Measures*, CC Docket No. 99-200, DA 04-3796 (rel. Nov. 30, 2004).

require carriers that have already borne the costs of implementing LNP and pooling to incur additional costs to accommodate the donation of blocks by carriers that the Nebraska PSC has excused from participation in LNP. Any delegation also should not include authority to require carriers to draw numbers from rate centers other than the requested rate center.

DISCUSSION

Cingular supports the optimization of numbering resources through the use of thousands-block number pooling. Cingular believes that pooling has extended the life of numerous area codes, thereby reducing the burdens on consumers, carriers, and state commissions alike. Now that wireless carriers have implemented LNP in all rate centers nationwide where they have received a request from another carrier, Cingular does not oppose the Commission granting the Nebraska PSC additional delegated authority to require pooling outside the largest 100 MSAs, consistent with the national pooling guidelines.

The Commission repeatedly has noted the importance of a consistent national framework for number pooling. In the *First NRO Order*, the Commission required state pooling trials to conform to the national number pooling framework, and specifically agreed with commenters that “uniform standards for thousands-block number pooling are necessary.”² In the *Second NRO Order*, the Commission permitted the continuation of minor, pre-existing variations in California’s and Maine’s pooling trials, but emphasized that:

[C]ompliance with a national, uniform framework for thousands-block number pooling will permit service providers to avoid having to conform with different requirements for every jurisdiction in which they operate, which would be unwieldy and inefficient for service providers from both a regulatory and a

² See, e.g., *Numbering Resource Optimization*, CC Docket No. 99-200, Report & Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 7574 at ¶ 169 (2000) (“*First NRO Order*”).

financial perspective. Moreover, a lack of uniformity would harm consumers, who would likely incur the costs imposed on service providers operating under disparate pooling regimes.³

In the *Third NRO Order*, the Commission rejected requests for state authority to determine pooling requirements on a case-by-case basis, reiterating that “uniform national standards for pooling are necessary to minimize confusion and additional expense related to compliance with inconsistent regulatory requirements.”⁴

The Commission has been correct to emphasize the importance of uniform national standards for pooling. The Commission therefore must ensure that any authority delegated to the Nebraska PSC is limited to requiring number pooling consistent with current Commission rules and industry guidelines.

It is not clear, however, that the Nebraska PSC contemplates implementing pooling in rural areas of Nebraska in a manner that is consistent with the national pooling framework. The Nebraska PSC has suspended the LNP implementation deadline for thirty-two rural ILECs until January 20, 2006.⁵ As a result, many of the carriers holding fallow number blocks in rural Nebraska are unable to participate in number pooling. The Nebraska PSC has conducted workshops to study the feasibility of implementing an unconventional form of number pooling whereby non-LNP capable carriers would be required to donate uncontaminated blocks of

³ *Numbering Resource Optimization*, CC Docket No. 99-200, Second Report & Order, Order on Reconsideration, and Second Further Notice of Proposed Rulemaking, 16 FCC Rcd 306 at ¶ 46 (2000) (“*Second NRO Order*”).

⁴ *Numbering Resource Optimization*, CC Docket No. 99-200, Third Report & Order and Second Order on Reconsideration, 17 FCC Rcd 252 at ¶ 21 (2001) (“*Third NRO Order*”).

⁵ *Application of Great Plains Communications, Inc., et al., for Suspension or Modification of the Federal Communications Commission Requirement to Implement Wireline-Wireless Number Portability Pursuant to 47 U.S.C. § 251(f)(2)*, Application Nos. C-3096 et al., Order Granting Suspension (Neb. PSC July 20, 2004).

numbers to the pool, but not draw numbers from the pool.⁶ The working group included both LNP-capable and non-LNP-capable carriers in Nebraska as well as PSC staff.

The working group's report revealed that the proposal would impose significant additional costs on LNP-capable carriers. It would require modifications to the systems of LNP-capable carriers that would be required to take the number blocks donated by the non-LNP-capable carriers. For example, LNP-capable carriers, the National Thousands-Block Pooling Administrator ("PA") and the Number Portability Administration Center ("NPAC") would be required to modify their data records and feeds to account for the prospect of donated thousands-blocks in NXXs that are not marked as LNP-capable in the LERG. This is a fundamental change that would require systems to be modified to account for a new type of number block. This would affect carriers' systems for pooling, porting, and billing – as well as the systems of the NPAC and the PA. LNP-capable carriers would face the costs of modifying their own systems, and also would bear the cost of upgrading the NPAC and PA systems as shared industry costs.

Implementation of the proposal considered by the Nebraska working group would be inconsistent with the Commission's framework for number pooling and with the Industry Numbering Committee ("INC") number pooling guidelines. For example, the Commission's rules require block donors to donate blocks up to the required contamination level.⁷ For non-LNP-capable rural ILECs to donate blocks, however (as studied by the Nebraska working group), only pristine blocks could be donated.⁸ The industry guidelines also call for pooling

⁶ C-3049 Industry Working Group, Report on Non-LNP Capable Carriers Donating Thousands Blocks, Nov. 18, 2004.

⁷ 47 C.F.R. § 52.20(c).

⁸ The Nebraska working group "was tasked with investigating and describing the proposed methodology that would enable an incumbent local exchange carrier (donor) to donate (continued on next page)

carriers' switches to be LNP capable.⁹ Under the Nebraska proposal, the donor ILEC switches would not implement LRN routing and thus would remain non-LNP-capable. Perhaps more fundamentally, however, neither the Commission's rules nor the industry pooling guidelines ever have contemplated that a carrier could participate in pooling merely as a block donor without being required to fulfill its own numbering needs from the pool.

The proposal also would be bad public policy. It would impose additional costs on carriers that already have incurred significant costs to implement LNP, as ordered by the Commission. It would do so solely to avoid the imposition of those same costs on another group of carriers with whom they compete. By expending the resources to implement LRN technology, LNP-capable carriers such as Cingular have brought the benefits of both greater competitive choice through LNP *and* greater opportunities for number optimization through pooling. LNP-capable carriers already are disadvantaged in their ability to compete with these rural ILECs because of the LNP suspension – both because customers cannot switch from these carriers without changing their numbers and because of the implementation costs that these carriers have been allowed to avoid. To expect LNP-capable carriers to expend additional resources to permit these rural ILECs to participate in pooling would be entirely inappropriate and inequitable. Thus, the Nebraska PSC's authority, if granted, should exclude the ability to require participation in pooling plans that are inconsistent with the national pooling guidelines.

The Commission also should ensure that any authority delegated to the Nebraska PSC would not permit it to require carriers to accept numbering resources from rate centers or NPAs

uncontaminated blocks to the numbering resource pool without having LRN technology installed on the donor switch.” Nebraska Working Group Report at 5.

not of their choosing – whether or not jeopardy has been declared and rationing implemented.¹⁰ Currently, NANPA projects that the 402 area code will exhaust in the second quarter of 2006.¹¹ Jeopardy has not yet been declared within the 402 area code but, given the projected exhaust date, may be declared within the next 12 months. Wireless carriers take numbers in only a fraction of the rate centers where they provide service; they select the requested rate centers based on their customers’ demands and local calling patterns. As the Commission frequently has stated, “[u]nder no circumstances should consumers be precluded from receiving telecommunications services of their choice from providers of their choice for want of numbering resources.”¹² A carrier cannot provide the telecommunications services of the consumer’s choice without access to numbers in the consumer’s choice of rate center. Thus, the Nebraska PSC’s authority should not permit it to impose such a requirement under any circumstances.

CONCLUSION

Cingular supports numbering resource optimization through thousands-block number pooling, and does not oppose the Nebraska PSC’s request for additional delegated authority to require LNP-capable carriers to participate in pooling outside the top 100 MSAs, consistent with

⁹ Industry Numbering Committee, Thousands-Block Number (NXX-X) Pooling Administration Guidelines, INC 99-0127-023 (Nov. 26, 2004) at 6, 12, 13, *passim*.

¹⁰ Other states, such as California, have required carriers to take numbers out of adjacent rate centers or adjacent NPAs, often in the context of requests for relief outside the rationing process. *Numbering Resource Optimization; Petitions of the Arizona Corporation Commission et al.*, CC Docket No. 99-200, Order, 15 FCC Rcd 23371 at ¶¶ 36-38 (CCB 2000) (“*Nebraska Delegation Order*”).

¹¹ See <http://www.nanpa.com/pdf/NRUF/2004NPAExhaustProjectionsDisplayFinal.pdf>. NANPA projects that the 308 area code will not exhaust until second quarter 2026. *Id.*

¹² See, e.g., *Nebraska Delegation Order* at ¶ 11.

